

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Entercom Communications Corp.) Docket No. MB _____
) RM- _____
Petition to Amend Section Sec. 73.1216)
Licensee-conducted contests)

Petition for Rulemaking

Pursuant to Section 1.401 of the Commission's Rules, Entercom Communications Corp. ("Entercom")¹ hereby petitions the Commission to initiate a rulemaking proceeding for the purpose of amending Section 73.1216 of the Commission's rules.

I. SUMMARY

The purpose of this Petition is to request that the Commission bring Section 73.1216 Licensee-Conducted Contests (the "**Contest Rule**") in line with how the majority of Americans access and consume information in the 21st century and to provide relief to radio from mandated program content that is counterproductive and not the most effective to achieve the purposes of the Contest Rule. In today's fast paced world, Americans expect to instantly access information at their fingertips by merely logging on to a website, conducting a Google search, or using an app on their smart phone. Relying on broadcast announcements for material contest information may have been an acceptable way to attempt to inform the public about the terms of a contest when the Contest Rule was enacted in 1976, but it is certainly not the case today, especially when there are superior methods that are simple to implement. The vast majority of broadcasters

¹ Entercom Communications Corp. is the ultimate parent company of various subsidiaries that collectively are licensed to operate 112 broadcast radio stations (32 AM and 80 FM) throughout the United States.

already have dedicated websites where they can disclose complete contest information to the public that can be accessed “on demand.” Additionally, broadcasters can easily and quickly disseminate complete contest information to the public by email, facsimile, mail or in person. These methods provide a more effective way for the public to obtain full, accurate and detailed contest information in written form at any time the public chooses rather than waiting to hear periodic broadcast announcements of the material terms. These announcements do not provide complete details, may not be heard and, even if heard by listeners, may not be fully comprehended as the listening environment for radio varies widely among listeners. Accordingly, the Commission should update the Contest Rule to reflect today’s communications landscape and thus better serve the public.

II. BACKGROUND

The Contest Rule was enacted to ensure that broadcast licensees promote and conduct contests in a fair and honest manner in light of certain abusive contest practices the Commission observed in the 1960s and 1970s.² To achieve this, the Contest Rule requires licensees to disclose the material terms of a contest in periodic announcements on the station conducting the contest.³

While the reasons to update the Contest Rule similarly apply to television and radio, television can more easily satisfy the Contest Rule by inserting text at the bottom of the screen or at the end of a program creating a lesser intrusion upon the programming. On the other hand, radio is at a severe disadvantage because it has to interrupt programming to satisfy the Contest Rule to broadcast the material terms of a contest. A simple listening session of any station

² Amendment of Part 73 of the Commission’s Rules Relating to Licensee-Conducted Contests, 53 FCC 2nd 934, (proposed June 25, 1975).

³ Id.

running contest rules confirms that the broadcast of contest rules is negative, undesirable programming that drives away audience. Even if a listener happens to hear (or see in the case of television) a periodic announcement of the material terms, processing and remembering all of the information is a near impossible task. Thus, many listeners are not likely to obtain usable information about a contest through these broadcast announcements.

The material terms of some contests can be complex and lengthy. In addition, there are sometimes non-material details relating to a contest that are not broadcast. Supplying contest information in written form on a website, by email, facsimile, mail or in person provides a contestant complete contest information in a more comprehensible manner at a time and manner of one's choosing rather than waiting to hear the periodic broadcast of the contest's material terms on a station.

There are dramatic differences in how the average American expects to access and digest information today than they did in 1976 when the Contest Rule was enacted. Today, the internet is a medium Americans primarily use for obtaining instantaneous information. In February 2010, Edison Research and Arbitron Inc. conducted a telephone survey (landline and cell phone) of people aged 12 and older, that showed the internet was the most essential medium in the lives of those surveyed over television, radio and newspaper.⁴ The same research study also showed that eighty-four percent (84%) of all those surveyed have access to the internet from some location.⁵ In addition, Media Audit data indicates on average more than 81% of all adults (18+) actually accessed the internet in a 30 day period.⁶ The public can access the internet from home

⁴ Arbitron Inc./Edison Research, The Infinite Dial 2010: Digital Platforms and the Future of Radio (2010).

⁵ Id.

⁶ International Demographics, Inc., The Media Audit 2010/11- 80 Market National Aggregate Report

and work computers, through handheld mobile devices like cell phones and smart phones and in public libraries. These statistics show that internet usage is widespread and easily accessible.

The Commission itself has recognized the prevalence and efficiency of internet usage in today's world through its very own administration. The Commission has virtually eliminated "paper" filings by licensees and instead *requires* licensees to submit electronic filings through such systems as ECFS, CDBS and ULS. The Commission has proposals to require a whole range of information to be available on the internet on either the station's website or an FCC hosted site. A further example of the ease of use of the internet by the public is that the number of complaints received by the Commission exponentially increased since the Commission made an online complaint form available to the public.⁷ Filing a complaint with the Commission is now as simple as a few "clicks" of a mouse.

The public is already accustomed to accessing these station websites at any time to obtain up to date information on subjects such as news, weather, traffic, song names, etc. instead of waiting for announcements on the broadcast station. It also makes sense for the public to expect to visit a station's website to obtain detailed contest information. In the rare instance a broadcaster does not have a dedicated website it could post contest information on the website of its state broadcasters association, which the Commission has proposed in other circumstances.

Accordingly, it is requested that the Commission now revisit and update the outdated Contest Rule to reflect that there are now other simple and more effective ways to distribute contest information to the public rather than having a contestant rely on hearing and comprehending sometimes lengthy periodic on-air announcements and then expecting them to retain that information.

⁷ <http://transition.fcc.gov/eb/oip/ComplStatChart.pdf>.

III. NEED FOR RULEMAKING

The Commission should revisit the Contest Rule to make adjustments to better serve the public by recognizing that there are now better ways to communicate detailed contest information and removing from the rules of the requirement of counterproductive undesirable program content. Today's society consumes information dramatically different than it did in 1976 and expects that information be readily available with a "click" without having to wait. The Contest Rule should be updated to reflect this expectation and broadcasters should be allowed the option to avoid this mandated disruptive programming.

IV. PROPOSED RULE AMENDMENT

Entercom proposes that the Commission amend the Contest Rule to permit broadcasters to either: (a) broadcast the material terms on the station (as provided in the current rule); or (b) provide in written form on a website and upon request by email, facsimile, mail or in person, provided that the station makes periodic announcements advertising how and where the public can gain access to the material terms of a contest. Proposed language appears in Appendix A⁸.

Entercom does not propose completely eliminating the broadcast of material contest information on-air because on-air broadcast announcements may still make sense for some broadcasters and for extremely simple contests where very little information has to be conveyed to the listeners.

⁸ The proposed language includes all broadcasters. Even though the Contest Rule impacts radio more, the logic for changing the rule for TV is similar. If desired, limiting the changes to radio is a simple change to the proposal.

V. CONCLUSION

A grant of this petition will better serve the public interest by providing a more effective means for communicating detailed contest information. Entercom respectfully requests the Commission to issue a notice of proposed rulemaking that sets out the amendment to Section 73.1216 proposed by this petition.

Respectfully submitted,

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Appendix A

Sec. 73.1216 Licensee-conducted contests.

A licensee that broadcasts or advertises information about a contest it conducts shall fully and accurately disclose the material terms of the contest, and shall conduct the contest substantially as announced or advertised. No contest description shall be false, misleading or deceptive with respect to any material term.

Note 1: For the purposes of this rule:

(a) A contest is a scheme in which a prize is offered or awarded, based upon chance, diligence, knowledge or skill, to members of the public.

(b) Material terms include those factors which define the operation of the contest and which affect participation therein. Although the material terms may vary widely depending upon the exact nature of the contest, they will generally include: how to enter or participate; eligibility restrictions; entry deadline dates; whether prizes can be won; when prizes can be won; the extent, nature and value of prizes; basis for valuation of prizes; time and means of selection of winners; and/or tie-breaking procedures.

Note 2: In general, the time and manner of disclosure of the material terms of a contest are within the licensee's discretion. However, the obligation to disclose the material terms arises at the time the audience is first told how to enter or participate and continues thereafter. The disclosure of material terms should may be disclosed periodically made by announcements broadcast on the station conducting the contest by either: (a) announcements broadcast on the station; or (b) in written form on a Web site and by email, facsimile, mail or in person upon request by the public, provided that the station broadcast periodic announcements of how and where the public can obtain the material terms in written form. Broadcast announcements made pursuant to (a) and (b) above shall be made periodically, but need not be enumerated each time an announcement promoting the contest is broadcast. Disclosure of material terms in a reasonable number of such broadcast announcements is sufficient. In addition to the required broadcast announcements, disclosure of the material terms may be made in a non-broadcast manner are sufficient. Disclosure of material terms on a Web site can be made on the station's Web site or if the Station does not have its own Web site and if permitted, on the Web site of its state broadcasters association.

Note 3: This rule is not applicable to licensee-conducted contests not broadcast or advertised to the general public or to a substantial segment thereof, to contests in which the general public is not requested or permitted to participate, to the commercial advertisement of non-licensee-conducted contests, or to a contest conducted by a non-broadcast division of the licensee or by a non-broadcast company related to the licensee.